

The Kooka Executions.

ON the 22nd of July, the Correspondence relating to the executions of the Kookas,* who were implicated in the attacks on Fort Malodh and Malair Kotla in January last, was moved for in the House of Commons, and an order for printing it was issued. For some reason unexplained, no publication of these documents took place until the latter part of November, though questions as to the cause of their non-appearance had, on one or two occasions, been asked by members during the sitting of the House. On the day that Parliament was prorogued, a single sheet of paper, containing nothing more than the title of the Correspondence, was, however, laid upon the table; but underneath it—for the information of those who were interested in learning the details of this wholesale massacre—were only a quantity of blank sheets to represent a series of telegrams, letters, and reports, which, being now in print, extend to sixty pages.

In January last the Umballa Division of the Punjab had the happiness of having as its Commissioner a Mr. T. D. FORSYTH, while Ludiana, a sub-division of the same district, was equally happy in being ruled over by a Mr. L. COWAN, as Deputy-Commissioner—two gentlemen who appear to have represented the DALHOUSIE school of Indian politicians in those parts.

On the night of the 14th of January, a body of Kookas, in number two hundred, it was said, made an unsuccessful attack on Fort Malodh—a place belonging to the Malodh Sirdars (Sikh chiefs), and situate twenty miles south of Ludiana—in which two or three were killed and four were wounded and captured; and on the following morning, the 15th, a second attack, which also resulted in failure, was made by the same party and others, numbering five hundred, it was said, on Malair Kotla—the capital of the Mahomedan State of that name, which lies thirty miles south of Ludiana—when seven were killed and five were captured.

The aggregate loss inflicted by the insurgents on both these occasions amounted to ten killed and seventeen wounded. On their repulse, however, at Malair Kotla, the main body fled into the Patiala territory, where the greater part of them, sixty-eight in number, many of whom were severely wounded, and all of whom are variously described as being thoroughly “broken, cowed, or dispirited,” peaceably surrendered themselves on the next day to the Patiala authorities. These were brought to Kotla, and on the day following, the 17th, forty-nine of them, within two hours of their arrival, were blown from guns without trial by order of Deputy-Commissioner COWAN; and not only without trial, but in disregard, as we shall presently show, of the orders of Mr. FORSYTH, the Commissioner of the Division, who had given directions that the prisoners should remain in charge of the Patiala authorities until he could send a guard to bring them to Ludiana to be tried.

* The Kookas are a Mahomedan sect, having peculiar religious tenets, who are chiefly to be met in the neighbourhood of Ludiana in the Umballa Division of the Punjab.

To a certain extent Mr. COWAN admits this to be so; for he states (Blue Book, p. 53) that whilst the executions were going on, and after forty-two or forty-three of the prisoners had been blown from the guns, he received a letter from Mr. FORSYTH directing him "not to execute the captured Kookas, but to keep them for trial." This was the only one, he says, that he received from that gentleman ordering him "to abstain from executing the prisoners;" but this statement, to which we will again advert, is by no means borne out by the facts. The letter, however, arrived, it appears, as the remaining six or seven of the prisoners were tied to the guns and a bugler was waiting the order to sound "the fire." On reading it, Mr. COWAN "handed it," he tells us, "to Colonel PERKINS, with the remark that it would be impossible to stay the execution of the men already tied to the guns; that such a proceeding would have the worst effect on the people around." The work had commenced at sunset, but the interruption caused by the receipt of the letter only occasioned the delay of a moment. As the sun went down the work of blood and death went on. The signal to fire was given, and the remaining batch of those who had been set apart for that day's carnage were blown from the guns.

On the 18th Mr. FORSYTH arrived at Kotla, and, notwithstanding the gross illegality of these proceedings, which he qualifies by the milder term of "informality," he confirmed the sentence which had been carried into effect, and approved of the mode of execution. "There were no arrangements," he writes (Blue Book, p. 18), "for hanging so many, and considering the circumstances of the case, and occurring in a native state (*sic*), these men were executed by Mr. COWAN by being blown from a gun—a proceeding warranted by former precedents, when large numbers of rebels were thus disposed of in 1857." There then, out of the original number of sixty-eight, remained sixteen to be "disposed of;" for one had been cut down the day before, and two others, being women, had been sent back to Patiala. These sixteen had, it appears, undergone some form of trial before the arrival of Mr. FORSYTH, and, having been found guilty, they were executed at once by his orders; but whether in the same brutal and revolting manner as the others, or by hanging, the papers do not state.

Mr. COWAN attempts to justify his conduct on the ground that the offence committed was not an ordinary one, that the circumstances under which he was placed were exceptional, and that there was a well-founded apprehension that a general rising of the whole sect was about to take place. "The prisoners," he tells us (Blue Book, p. 11), "had not committed mere murder, or dacoity, but were open rebels offering contumacious resistance to constituted authority," and "to prevent the spreading of the disease, it was absolutely necessary that the repressive measures should be prompt and stern." In another letter, however (Blue Book, p. 15), while admitting that he had exercised an authority which was not vested in him, he speaks of the affair as "a miserable attempt at rebellion which had been stamped out." A miserable one, indeed, it appears to have been; for it

turns out that the whole number of those who were engaged in it *never exceeded* 125, many of whom were very imperfectly armed (some, in fact, appear to have been women), and that for crushing them with ease he had an overwhelming force at his disposal.

That the insurrection, if such it can be called, was at an end when the 68 prisoners were captured, there can be no doubt. It was suggested, however, by Mr. FORSYTH that there was reason to apprehend a general rising, because various small bodies of Kookas had been seen in the neighbourhood of Malair Kotla, who had promptly disappeared; leaving it to be inferred that they had done so in consequence of the executions. But, as the correspondence clearly shows, their disappearance was owing to another cause; for they dispersed on the 15th, that is to say, two days before the executions, and they did so, as is quite evident, in consequence of the defeat of their associates at Kotla. We have the admission, moreover, of Mr. COWAN himself that no further outbreak was apprehended; for in a letter written by him on the 21st, a quotation from which only is given in the Blue Book (p. 25), he says: "As the contingents from adjoining native States had arrived, or were close at hand, I felt confident that in the possession of such a force, and with the arrangements I hurriedly made, there was no fear of an immediate attack on Kotla, or any place in its neighbourhood." The attempt, then, at insurrection, if insurrection it were, had signally failed; the main body of those who were engaged in it were prisoners; and the force at the command of the Deputy Commissioner was amply sufficient to crush any hostile movement that might take place. There is therefore not a shadow of evidence to make the case an exceptional one, so as to justify him in his unwarrantable assumption of judicial and legislative authority, or to palliate the crime of murder of which he is unquestionably guilty.

Mr. FORSYTH's anxiety to give a colour of legality to what he calls "the over zealous proceedings" of his subordinate, whose "energy," he tells us, had been applauded in a telegram from the Lieutenant-Governor of the Punjab, frequently displays itself in the course of the Correspondence. He admits that no trial was held of the 49 who were executed; but as a substitution for it, he is quite content to accept Mr. COWAN's "assurances that all were actually present at Kotla, and if so," says he, "they were equally liable to capital punishment" (a distinction ought to be made one would think between mere presence and taking an active part), "though as regards the severely wounded," he adds, "execution ought to have been stayed." But what right had Mr. COWAN to execute these men without trial? Are his "assurances," that they were all present at the attack sufficient to satisfy the requirements of the law? Was there no difference to be made between ringleaders and followers? Were they all to be indiscriminately massacred? Mr. FORSYTH's attempt however, to implicate the Lieutenant-Governor of the Punjab as an approver, and therefore as an accomplice like himself, in this wretched affair, is simply unfortunate. No such telegram as that to which he refers appears in the published Correspondence; and the fact that

any such was ever sent—certainly with a full knowledge of what had been done—becomes trebly doubtful in the face of the following passage in a letter from Mr. GRIFFIN, Secretary to the Punjab Government, under date the 19th of January: "The Lieutenant-Governor regrets the course taken by Mr. COWAN, Deputy Commissioner of Ludiana, on summarily executing the Kooka insurgents captured in the Patiala territory, and is of opinion that there was no such urgent necessity as to justify that officer acting without the order of the Commissioner, whose letter directing formal procedure to be employed in the trial of the insurgents appears to have reached Mr. COWAN after the execution." (Blue Book, p. 9).

The letter here referred to did however, as we have seen, reach Mr. COWAN before the executions were completed; it arrived in time to prevent the last batch from being blown from the guns, though Mr. FORSYTH, well knowing what had taken place, had the assurance to write to the Lieutenant-Governor on the 22nd, that his instructions only reached Mr. COWAN after the whole number had been "disposed of." (Blue Book, p. 22.)

We have, however, said that the executions were in disregard of Mr. FORSYTH's orders from the first, that the prisoners should be detained until they could be brought to trial; and this we now proceed to prove.

In a paper drawn up by him, which was confidentially communicated to the Viceroy and Governor-General, but which does not appear in the printed correspondence, there is the following passage: "On reaching Ludiana on the evening of the 16th, I received a letter from Mr. COWAN, expressing his desire to execute the prisoners at once. I wrote, requesting him to leave all the men caught by the Patiala authorities, in their charge, till I could send out a guard to bring them to Ludiana for trial. *This letter Mr. COWAN must have received before he executed any.*" (Blue Book, p. 48.) The same statement is also repeated by him, with further additions, in a communication to Mr. GRIFFIN, dated April the 8th. "Three letters," he there says, "were addressed by me to Mr. COWAN, on the subject of the mode of dealing with the prisoners taken at Malodh and Malair Kotla, between the time of my arrival at Ludiana on the night of the 16th, and the receipt of the news of the executions of the 17th of January. The first letter" (the one just mentioned) "was sent off on the night of the 16th. *That it arrived at its destination before the executions took place is unquestioned.* Mr. COWAN informs me that he received it on the 16th or 17th; but he, probably, in his reply will give you the exact hour of its receipt. As to the contents of that letter, it being in a semi-official form, I unfortunately kept no copy, and Mr. COWAN informs me that the original has been mislaid." (Blue Book, p. 51.)

The second letter which he mentions appears to have been the one that arrived as the executions were going on; and the third, which was to a similar effect as the two previous ones, was sent afterwards. This last is not important as carrying the matter much further; but the following extracts from it are not uninteresting: "With regard to

"your expressed desire for promptitude" (that is, for execution without trial), "the case is not sufficiently urgent to justify the abandonment of the very simple form of procedure we have at hand." "My dear COWAN," he adds, towards the conclusion, "you have done admirably, but, for Heaven's sake, don't let the whole fall short of success by any hasty act. A delay of twelve hours cannot produce harm, whereas illegal action may cause trouble." (Blue Book, p. 53.)

Mr. COWAN's answer to the statements contained in these letters is far from satisfactory. He alleged, as we have before mentioned, that he had only received one letter, directing him to reserve the prisoners for trial, and that this had arrived whilst the executions were proceeding. Mr. FORSYTH, however, distinctly asserts that the letter written by him on the 16th must have reached its destination before any of them were executed; a statement which is, in fact, confirmed by Mr. COWAN himself, for in a letter written by him to Mr. FORSYTH, some time before the 8th of April—an extract only from which is given in the Blue Book (p. 51)—he says: "I remember having received a semi-official letter from you on the 16th or 17th of January, to the effect that it would be best to keep the captured rebels in the fort of Sherpur till you could send out a force to take charge of them." This could not have been the one which arrived during the executions, for that reached him on the 17th; indeed, he expressly acknowledges that it was not, and that he had received a previous one to the effect above stated, as will be seen from the following passage in a communication addressed by him on the 8th of April to Mr. GRIFFIN: "Earlier in the day" (that is the 17th) "before or about noon, as I was riding through the town of Kotla, a letter was put in my hands from Mr. FORSYTH, who had arrived at Ludiana late on the previous night. This note was to the effect that he had heard of the capture of the rebels, and that in the present disturbed state of the country it would be better that they should be detained in the Patiala fort of Sherpur till he could send out a sufficiently strong guard to take charge of them. The note did not contain any instructions to have them brought to trial. I put the note in my pocket, and thought no more about it. It contained only a suggestion, which could not be acted on, for the captured Kookas were then close to Kotla, on their way in." (Blue Book, p. 53.)

He had previously said, in the same communication, that the only letter which he had received from Mr. FORSYTH, directing him not to execute the captured Kookas, arrived during the executions. It is quite clear, however, that he had received the previous one, but he attempts to reconcile the two accounts which he gives by stating that the latter did not contain any instructions to have the prisoners brought to trial. Mr. FORSYTH, on the other hand, distinctly alleges that it did; or, at all events, that it contained instructions that the prisoners should be detained until they could be brought to trial; but surely there was sufficient in it, even on Mr. COWAN's own showing, to give him to understand that he was not to execute them; to say nothing

of the fact that he must have been fully aware that he had no authority to do so without trial.

Again: the letter which he received at or before noon he tells us that he must have destroyed, not supposing that he should ever be called on to furnish a copy of it. "I had no conceivable motive," he writes, "for keeping it back." No motive! He had every motive for doing so. He had every motive for destroying it; just as a criminal would have who, to prevent a conviction, makes away with a document containing damning proof of his guilt.

The charge against Mr. COWAN of having put these forty-nine men to death without trial, and in disregard of orders to the contrary, is, therefore, amply substantiated by the evidence we have adduced; as is also that against Mr. FORSYTH of being an accessory after the fact, from a moral point of view at least, in these lawless and atrocious proceedings. The latter, indeed, deliberately confirmed them before he arrived on the spot, and therefore before he was in a position to inquire why his orders had been disobeyed; for previous to his arrival at Kotla, though he had only a short time before, in his third letter, impressed upon Mr. COWAN the necessity of avoiding illegal action for fear it might "cause trouble," he wrote to him under date Jan. 18, as follows: "My dear COWAN, I fully confirm and approve all you have done. You have acted *admirably*. I am coming out." (Blue Book, p. 53.) Nor is this all. We have seen that on his arrival he deliberately ordered sixteen more of the prisoners, who had passed through a sort of trial, to be executed; a course for which certainly no necessity existed on the score of making a further example; seeing, moreover, as appears from a report of the proceedings, that the same degree of guilt did not by any means attach to all.

To mark the sense of justice which the Government of India entertain regarding the acts of these persons—acts which, on all hands, are acknowledged to have been lawless and unwarranted—they have relieved Mr. COWAN from his office, but, to compensate him for the loss of it, have conferred upon him a pension of three hundred rupees per month; while they have rewarded Mr. FORSYTH by removing him to another appointment in Oude.

In the despatch of the Council of the Governor-General to the Duke of ARGYLL, recommending "a moderate pension" to Mr. COWAN, reference is made to "the meritorious and faithful services" of that gentleman during a period of twenty-three years. In the present case, it said, that there could be no doubt that he had "acted sincerely" and zealously in accordance with what he erroneously believed to "be the urgent demand of public duty." This, observe, was in reference to acts which would have sent him, if tried by a criminal court, to the gallows. "*There was no offence,*" it adds, "*against the rules of morality or rectitude. It was his misfortune,*" &c. &c.

In the document, it may be remarked, there is no allusion whatever to the system of blowing offenders from the cannon's mouth. But this mode of punishment having been established by "precedent" and sanctioned by "public opinion," may perhaps now be regarded as

a settled and constituted regulation. It was in fact formally approved of with acclamation by the House of Commons in 1857 when Mr. RICHARDSON, the then Member for Lisburne, moved for a return of all who had been shot from guns during the Indian Mutiny, under whose orders the executions had taken place, and whether the practice of punishing offenders in this manner was in accordance with the rules of military discipline in India. The Motion fell to the ground for want of a seconder; nor was any answer given to the question: *a result which was received with loud cheers from all parts of the House!*

The facts we have just related are in themselves too plain to require any comment; and, therefore, for any one who on reading them does not at once feel horrified and indignant, comment would appear to be useless. Nevertheless, we must try to place some considerations before those who may be more puzzled in their minds than depraved in their morals with regard to these matters.

We could not have a case in which the shedding of blood is brought home more clearly to one particular individual. The man who causes sixty-five of his fellow-creatures to be put to death in cold blood and in the most revolting manner is not considered to be a murderer, although, had he put one man to death under other circumstances he would have been so considered. In the one case he receives a pension, and is distinctly exonerated from "all offence against the rules of "morality or rectitude;" in the other he receives a felon's cell and a murderer's shameful end.

It is now, therefore, laid down in the most formal manner that men in a position of authority cannot be guilty of a crime in the exercise of that authority; that whatever may be the nature of their acts they can only be censured for a want of judgment. In other words, the public servants of the State are not under the control of the law. This maxim is accepted at the present moment as applicable to every part of the British dominions except the British Isles themselves, as we learn from the case which occurred two or three years ago in Jamaica; a case to which the attention of the public has been lately recalled in the most shameless manner by Government, who have recently asked for and obtained from the House of Commons compensation out of the public purse for ex-Governor EYRE, the murderer of Mr. GORDON and of many others.

We say, "except the British Isles;" because here a contrary maxim prevails, though an equally lawless one.

Mr. COWAN, it will be observed, seeks to justify his execution of the Kooka prisoners without trial on the ground that they had not committed "mere murder," but were "guilty of resistance to constituted authority;" that is to say, they were Asiatic Fenians—they were guilty of "a political offence" only. That which in England and Ireland is held not to be a crime, but only a "misfortune"—to use the words of the Council of the Governor-General, as applied to the murder of the Kookas—is therefore in India a crime far worse than murder, and only to be expiated by blood.

But putting aside the considerations of morality and justice, the case

has to be considered in reference to our retention of India and Ireland; and that case consists not in events that occur, but in opinions that are expressed. By the double illegality of granting impunity to men in office for criminal acts which they commit as such, and of refusing to recognise crime in private individuals when they break the law of the land, not merely in wronging their neighbours, but in attacking the existence of the State itself, we shall lose both India and Ireland. Do we suppose that the natives of India are not human beings like ourselves to resent bloodthirsty injustice? Do we think that treason is not fostered by showing a disposition that we are afraid to deal with it as such, and by drawing distinctions between "political" and "moral" offences? The ferocity in the one case and the weakness in the other will both meet with their due reward. Base and miserable fear is, indeed, the prevailing motor in both.

These ideas, which now seem perfectly natural to us, are but of yesterday. The blowing away from guns was the fruit of the Indian Mutiny, which we had ourselves provoked, and yet a question concerning the origin of this new mode of execution could not be put in the House of Commons! Talk of the Commune of Paris and the execution of the hostages, after the scenes in India and the approving cheers of English "gentlemen" in the House of Commons!

That it may be seen, however, that we do not speak idly and without grounds when we say that but a few years have witnessed the change amongst us in respect to the guilt which attaches to those in authority, who make use of their power to violate the law, we have only to refer our readers to the case of Governor WALL, which will be found amply detailed in the twenty-eighth volume of the State Trials. The facts of it were these:—

Whilst Governor of Goree, in 1782, he ordered a black soldier, BENJAMIN ARMSTRONG, to receive 800 lashes on a pretended charge of mutiny. No mutiny had, however, taken place; there had been nothing, in fact, which could be so characterised even in its widest sense. The sentence, moreover, was without any trial by Court Martial or otherwise; and it was carried into effect with the utmost rigour. The unfortunate man received the full complement of 800 lashes, not from the ordinary cat-o'-nine-tails, but from a rope one inch in diameter; and such was the severity of the injuries he received that he died a few days afterwards.

For this crime Governor WALL was arrested on his arrival in England two years afterwards; but he managed to effect his escape from the messengers who had him in custody. In 1802, that is to say eighteen years after his return to this country, and twenty years after the death of ARMSTRONG, he was again arrested, and on being tried at the Old Bailey for murder he was found guilty and sentenced to be hanged; which sentence was afterwards carried out on the 2nd of July in that year, amid the hootings and execrations of an immense crowd of spectators.

The difference indeed between public and private men appears to be this: that the private man can do whatever is not *forbidden* by the law; while the man in authority can do absolutely nothing beyond

what the law *allows* him to do, for he acts by a power conceded to him and vested in him for the purpose of executing the law.

In a well-ordered community, or for a well-regulated mind, the first and necessary condition is that of the strictest supervision over those who are holders of such delegated authority, and these may be well excused if lenient to the guilt of private and small malefactors. The counterpart of that condition is what we see around us; rancour for the petty felon, condonement, if not applause, for the wholesale assassin.

It was a remark well worth recording to the honour of the late Bishop of EXETER that the most frightful character of our age was "indifference to the crimes of the great."

That which has enabled the Ottoman Empire to live through the period of its vicissitudes has been that fundamental sense; punishment for the crimes of the great.

Our public life is a mere life of felony.

Our *political life* is a contest for the acquiring of the faculty of committing felony.

Our public opinion is a chorus of strophe and antistrophe in its praise.

Our private character is a substitution of wrong for right.

The business of such a publication as ours is not the bringing of public felons to the bar of public justice, but the endeavour to institute a bar of common sense and public-mindedness in some, so that hereafter hands may be found again to wield the sword of public justice; or that at all events a clue of tradition may remain to connect the great who have been with their possible successors who may arise.

This endeavour is the business of every day, for not a day passes without a crime.

"The School of Public Law," as we have been called across the Channel is not one for the mere enunciation of the Ten Commandments. It is one in which each member has to carry on a daily struggle against the felony of his government and the baseness of each of his fellow subjects.

E. F. H.

The Necessity for Europe to return to the Law of Nations.

(From the Polish journal, the "*Czas*," November 8, 1872.)

I.

SIR,

I have read with some attention the last manifesto of the German bishops assembled at Fulda on the 20th of September last; and from reading it I have arrived at the conclusion that it is more imperiously necessary than ever for Europe to return to the Law of Nations, if she does not wish to see the closing stone placed over the abyss at the bottom of which she lies at the point of death.

* He said this in reference to the Afghan War.